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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,258	01/31/2002	Magnus Ljungstrom	60889/HO-P02314US1-101085	2268
29053 7590 10/03/2007 FULBRIGHT & JAWORSKI L.L.P			EXAMI	INER
2200 ROSS AVENUE SUITE 2800 DALLAS, TX 75201-2784		•	WARDEN, JILL ALICE	
			ART UNIT	PAPER NUMBER
DALLETAS, TA	73201 2701		1743	
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			10/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<u> </u>	Application No.	Applicant(s)				
•						
Office Action Summany	10/062,258	LJUNGSTROM ET AL.				
Office Action Summary	Examiner	Art Unit				
	Jill A. Warden	1743				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REP WHICHEVER IS LONGER, FROM THE MAILING - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory perio - Failure to reply within the set or extended period for reply will, by statt Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUN 1.136(a). In no event, however, may not will apply and will expire SIX (6) Mo tute, cause the application to become	IICATION. a reply be timely filed ONTHS from the mailing date of this communication. ABANDONED (35 U.S.C. § 133).				
Status	•					
1) Responsive to communication(s) filed on 07	August 2006.					
2a) This action is FINAL . 2b) ⊠ Th	This action is FINAL . 2b)⊠ This action is non-final.					
·	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4) ☐ Claim(s) 1.3,4,7-13 and 21-28 is/are pending 4a) Of the above claim(s) is/are withdr 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1. 3. 4. 7. 8. 10-13 and 21-27 is/are 7) ☐ Claim(s) 9 and 28 is/are objected to. 8) ☐ Claim(s) are subject to restriction and	rawn from consideration.					
Application Papers						
9) The specification is objected to by the Examination 10) The drawing(s) filed on is/are: a) and according a deposition and applicant may not request that any objection to the Replacement drawing sheet(s) including the correction 11) The oath or declaration is objected to by the I	ccepted or b) objected to objected to objected to object of the drawing (s) be held in abey ection is required if the drawing.	ance. See 37 CFR 1.85(a). ng(s) is objected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)		v Summary (PTO-413) o(s)/Mail Date				
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date		f Informat Patent Application				

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DETAILED ACTION

Response to Arguments

Applicant's arguments filed August 6, 2006 with respect to the rejection(s) of claim(s) 1, 3, 4, 7-13 and 21-28 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of Worthington.

Claim Rejections - 35 USC § 102

Claim Rejections - 35 USC § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.

- 3. Resolving the level of ordinary skill in the pertinent art.
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3, 4, 7, 8, 10-13 and 21-27 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Worthington, et al.

Worthington teaches optical bio-discs for analysis. With respect to the claims at issue, Worthington teaches:

- A disc (130, 132) having microcavities (wobble grooves, 138) containing a substance which causes radiation to be measured (analyte specific signal elements 136) figure 19,
- A detector head (10) only coverin g a portion of the detection area,
- A disc holder (commercially available CD and DVD readers having disk trays, column 15, lines 11-23)

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 An angular aligning system for recognizing the angular position fo the disc (column 17, line 66-column 18, line 4, the reader must adequately monitor tangential position, which is the angular position), and

 A controller for controlling the disc holder to enable the detector head focal area to transverse the surface of the disc (column 13, lines 8-27).

Worthington teaches that probes (analyte specific) are immobilized in the wobble grooves of the disc. Clearly these grooves are capable of transporting aliquots of liquid. See example 3, columns 39-40. Worthington further teaches that the reader must monitor tangential position of the disc for an adequate read. Examiner understands that angular position and tangential position are the same. Also, it appears that, as in a conventional CD/DVD reader, the disc and detector head must move relative to each other in order to read all the information on the disc.

The examiner believes that the disc and reader of Worthington are the same as those recited in the instant claims. However, the disclosure of Worthington is not explicit in its discussion of the disc holder and the controller for controlling relative motion of the disc holder and the detector head. If not identical, it would have been obvious to one having ordinary skill in the art to modify the reader of Worthington to provide a disc holder and a controller which ensures accurate relative motion between the detection head and the disc holder in order to precisely read the analysis results, as well as the operative information stored on the disc.

Allowable Subject Matter

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Claims 9 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or fairly suggest the recited encoder structure for the angular alignment system, nor an alignment system specifically separate from the detector head.

Conclusion

Any inquiry concerning this communication should be directed to Jill A. Warden at telephone number (571) 272-1267.

ill A. Warder

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